

**Report considered by Standards Committee on 11th June 2012
Agenda Item 7**

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Subject	Localism Act 2011 – The New Standards Framework
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RECOMMENDATIONS

The Committee is asked to make the following recommendations to the Council:

- (1) Adopt a new code of conduct for Members in accordance with Section 27(2) of the Localism Act 2011 with effect from 1 July 2012 or such other date as legislation provides.
- (2) Approve arrangements for dealing with allegations of misconduct by Members with effect from 1 July 2012 or such other date as legislation provides.
- (3) That 4 Councillors be appointed to sit to Standards Committee (politically balanced) on the nominations of the Group Leaders.
- (4) That the independent (non-voting) and the reserve independent (non-voting) Members of the Standards Committee be appointed at the Council meeting.
- (5) That two Parish Councilors be appointed as the Parish Council representatives (non-voting) on the Standards Committee.
- (6) That the Council's existing Standards Committee continue until such time as the new regime comes into effect.
- (7) That the Monitoring Officer be authorised, in consultation with the Members of the Standards Committee, to make amendments to the Code of Conduct and the arrangements for dealing with allegations of misconduct by Members, in accordance with any Regulations received following the approval of these recommendations.
- (8) That the Council Constitution be amended accordingly.

The Council has the authority to determine the Recommendations

BACKGROUND

1.0 New Code of Conduct

- 1.1 The current statutory model Code of Conduct for Members is to be abolished. The Localism Act replaces it with an obligation to adopt a Code dealing with the conduct that is expected of Members when acting in their official capacity. The Code must include such provision as the Council considers appropriate for the registration and disclosure of pecuniary and other interests.
- 1.2 The Government has otherwise refrained from prescribing what local Codes must contain, other than stipulating that they must respect the following principles of holding public office: -
- selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership.
- 1.3 A draft Code is attached as Appendix A. The Code will apply to both elected Councillors and co-opted members when they act in their official capacity (paragraph 1(1)). The seven principles of public life are given prominence in paragraph 1(3).
- 1.4 The Code also includes some general obligations of good conduct. These include:
- treating other persons with respect
 - not breaching confidences except in limited circumstances
 - only using the resources of the Council for proper purposes.
- 1.5 The draft Code cautions against the acceptance of excessive gifts or hospitality and continues the requirement in the current Code to register gifts or hospitality if they are estimated to exceed £25 in value.
- 1.6 The Code has to make provision for the registration and disclosure of pecuniary interests. Regulations will set out precisely what “disclosable pecuniary interests” need to be registered. The obligation will be on a newly elected Member to notify the Monitoring Officer of all disclosable pecuniary interests within 28 days of taking office. The Code also requires Members to notify changes within 28 days of them taking effect. A Member with a disclosable pecuniary interest in a matter to be considered at a Council, Executive or Committee meeting cannot participate in any discussion or vote at the meeting. The Code provides for the Member to leave the room whilst the item is discussed.

- 1.7 It is appropriate to make provision for a limited number of non-pecuniary interests to be registered. These will cover membership of or occupation of a position of general control or management of the following bodies:
- bodies to which the Member has been nominated by the Council
 - bodies exercising functions of a public nature
 - bodies directed to charitable purposes
 - bodies whose principal purpose includes the influence of public opinion.
- 1.8 The register of interests has to be available for public inspection and published on the Council's website. This is a statutory requirement.
- 1.9 A new paragraph takes account of the legislative position taken by the Government so far as allegations of bias or predetermination are concerned. Section 25 of the Localism Act 2011 provides that a Member is not to be taken as having had a closed mind when making a decision "just because" he/she had previously expressed a view in relation to the matter. This is given effect in paragraph 6 (1) of the new Code.
- 1.10 For clarity, in relation to planning matters the Council's Constitution continues to contain a section entitled "Members' Planning Code of Good Practice".
- 1.11 At the time of writing the Government has still to set out in regulations the precise categories of pecuniary interest which will require registration. It is therefore considered appropriate that the Council authorise the Monitoring Officer, in consultation with the Members of the Standards Committee, to make amendments to the Code of Conduct and the arrangements for dealing with allegations of misconduct by Members, in accordance with any Regulations received following the approval of these recommendations

2.0 Arrangements for handling allegations

- 2.1 The intention here is to provide for arrangements that are substantially simpler and clearer than the procedures that exist at present. The current arrangements reflect the requirements of the former statutory regime and *Standards for England*. Appendix B sets out a more succinct process for receiving allegations that a Member has breached the Code and, when necessary, proceeding to investigation and decision.
- 2.2 The Monitoring Officer will, as now, be the first contact for all complaints. The arrangements will permit an initial review and consultation with the Independent Person. If the complaint is trivial or a breach of the Code is not specified, the process may end there, with the complainant being given reasons. The early stage also provides for the possibility of informal resolution without formal investigation. However, if an investigation is necessary, that sets in train a particular process.
- 2.3 To ensure that officer independence is not compromised by carrying out the actual investigation into alleged Member misconduct the "Investigating Officer" will be either an officer of another authority or an external investigator. The investigative procedure is set out in paragraph 5 of Appendix B. It will involve the

investigator speaking with or writing to the parties and eventually writing a draft report. The parties will have the opportunity to comment on the draft before it is sent to the Monitoring Officer.

- 2.4 If the investigator concludes that there has been no evidence of a failure to comply with the Code, and the Monitoring Officer is satisfied that the report is sufficient, that will be the end of the matter, save for the parties being advised and a final copy of the report being provided. If there is evidence of a breach of the Code, the matter is likely to proceed to a hearing conducted by a Complaints Sub-Committee of the Standards Committee although there is still the possibility of some other local resolution. (The procedure for convening the Complaints Sub-Committee is set out in Appendix B).
- 2.5 If misconduct is established a summary of possible actions are set out in Appendix B, paragraph 8.

3.0 Appointment of Independent Person(s)

- 3.1 The Council at its meeting on 17th April 2012 approved the establishment of the new Standards Committee with 4 elected members of the District Council (politically balanced), two Parish Councillors without voting rights and two Independent Co-optees, designated the Independent Person and Reserve independent Person, both without voting rights. An advertisement has been placed seeking applications by interested persons and any applications will be assessed by the Monitoring Officer and reported directly to the Council. The Parish Councils have been requested to advise of their two nominees and again, these will be reported directly to the Council.
- 3.2 The appointment of two independent persons is an entirely new requirement and, before any appointment is made, there needs to be an application by the interested persons, interviews by the Monitoring Officer and appointments to the roles by the Council.
- 3.3 The following people are ineligible to carry out the role
- Members, co-opted members or officers of this Council or any Parish Council in the District
 - relatives or close friends of the above persons
 - persons who were Members, co-opted members or officers of this Council or any Parish Council in the District in the last five years
- 3.4 The Act provides that an Independent Person does not lose their “independence” if they are paid an allowance or expenses by the Council for carrying out the role. It is not proposed at this stage that the appointee should receive an allowance. The infrequent nature of the role would make a set allowance inappropriate, although there may be the need to reimburse occasional expenses. The next time the Independent Remuneration Panel meets it will be asked to consider this matter further. The Council will appoint the Independent Persons for an initial period of one year which may be extended to four years.

- 3.5 It is important to set a clear expectation of the type of person required to fill this role. A copy of the advertisement and person specification is attached at Appendix C.
- 3.6 If an allegation is made that a Member has failed to comply with the Code of Conduct, and if this is investigated, the views of the Independent Person must be sought before any decision on the allegation is made. These views must be taken into account by the Monitoring Officer but may also be sought by the Member against whom the allegation is made. If the Independent Person has been consulted on the allegation it is inappropriate for that person to be involved in the determination of the allegation as they might be regarded as prejudiced. As such the Council has agreed that two independent co-optees will be sought and will be designated as the Independent Person and Reserve Independent person. Both co-optees will be able to attend Standards Committee meetings when business being transacted does not involve a specific complaint.

4.0 CORPORATE IMPLICATIONS

Legal Implications – The Code of Conduct and arrangements for handling allegations have been prepared in accordance with the requirements of the Localism Act 2011.

Financial Implications – There are no additional financial burdens on the Council arising from the adoption of the recommendations contained within this report.

Risk Implications - The agreement of these arrangements will help satisfy the statutory duty to promote and maintain high standards of conduct by Members. New and effective processes will help maintain strong ethical governance and safeguard the Council from damage to reputation.

Equalities Implications – The Council's Standards regime will comply with equalities legislation.

Employment Issues – None.

Sustainability Issues – None.

Consultation - The Council has previously approved the mechanisms for the establishment of the new Standards Committee. The draft Code of conduct and arrangements for handling allegations build on work undertaken by the Association of Council Secretaries and Solicitors and the Surrey Administrators' Solicitors' Group.

BACKGROUND PAPERS

None

Mole Valley District Council

Members' Code of Conduct

1. Introduction and Interpretation

- 1.1 This Code applies to you as a Member of Mole Valley District Council (“the Council”) when you act in your role as a Member*.
- 1.2 This Code is based on, and is consistent with, the principles of public life set out in Section 28 of the Localism Act 2011: -
- Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership.

- 1.3 These principles define the standards that Members should uphold, and serve as a reminder of the purpose of the Code of Conduct. The principles can be defined as follows:

Selflessness: Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Integrity: Members should not place themselves in situations where their integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

Objectivity: Members should take decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability: Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with any scrutiny appropriate to their particular office.

Openness: Members should be as open as possible about their actions and those of the Council, and should be prepared to give reasons for those actions.

Honesty: Members should not place themselves in situations where their honesty may be questioned.

Leadership: Members should promote and support these principles by leadership and by example, and should act in a way that secures or preserves public confidence.

1.4 It is your responsibility to comply with the provisions of this Code.

1.5 In this Code –

“meeting” means any meeting of

- (a) the Council;
- (b) the Executive;
- (c) any of the Council’s or the Executive’s committees, sub-committees, joint committees, working groups or panels.

*“Member” includes a co-opted member.

2. General Obligations

2.1 **Do** treat others with respect. In particular, you should promote equality by not discriminating unlawfully against any person, and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. You should also respect the impartiality and integrity of the Council’s statutory officers and its other employees.

2.2 **Do not** conduct yourself in a manner which is contrary to the Council’s duty to promote and maintain high standards of conduct by Members or the principles contained in Section 28 of the Localism Act 2011 (see paragraphs 1.2 and 1.3 above).

2.3 **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is:
 - (a) reasonable and in the public interest;
 - (b) made in good faith and in compliance with the reasonable requirements of the Council; and
 - (c) you have consulted the Monitoring Officer or taken other independent legal advice prior to its release.

2.4 **Do not** prevent another person from gaining access to information to which that person is entitled by law.

2.5 **Do not** use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person an advantage or disadvantage.

- 2.6. When using or authorising the use by others of the resources of the Council:
- (1) **Do** act in accordance with the Council's reasonable requirements and policies;
 - (2) **Do** ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (3) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

3 Gifts and Hospitality

- 3.1 **Do** exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member.
- 3.2 **Do not** accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
- 3.3 **Do** register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

4 Registration of Interests

- 4.1 **Do** notify the Monitoring Officer of your disclosable pecuniary interests, or other interests which the Council has decided are appropriate for registration, within 28 days of being elected or appointed to office.
- 4.2 **DO** notify the Monitoring Officer of any change in your disclosable pecuniary interests, or other interests which the Council has decided are appropriate for registration, within 28 days of the change taking effect.
- 4.3 **Do** notify the Monitoring Officer of any disclosable pecuniary interests, or other interests which the Council has decided are appropriate for registration, not already registered within 28 days of your re-election or re-appointment to office.
- 4.4 **Do** be aware that disclosable pecuniary interests include not only your interests but also the interests of your spouse or civil partner, a person with whom you are living as husband or wife or a person with whom you are living as if they were a civil partner, so far as you are aware of the interests of that person.
- 4.5 **Do** be aware that the Council has decided that it is appropriate for you to register and disclose non-pecuniary interests that arise from your membership of, or your occupation of a position of general control or management in, the following bodies:
- (i) bodies to which you have been appointed or nominated by the Council;
 - (ii) bodies exercising functions of a public nature;
 - (iii) bodies directed to charitable purposes;
 - (iv) bodies one of whose principal purposes includes the influence of public opinion or policy.

Note: "Disclosable pecuniary interests" means interests defined as such in regulations made by the Secretary of State.

5 Disclosure of Interests and Participation

- 5.1 **Do** disclose to a meeting at which you are present any disclosable pecuniary interest, or other interest which the Council has decided is appropriate for registration.
- 5.2 **Do** notify the Monitoring Officer of any disclosable pecuniary interest, or other interest which the Council has decided is appropriate for registration, not already registered that is disclosed to a meeting under paragraph 5 (1) above within 28 days of the disclosure.
- 5.3 **Do not** participate in any discussion, or vote, where you have a disclosable pecuniary interest in a matter. **Do** withdraw from the meeting during the consideration of the matter.

6. Predetermination

- 6.1 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your political role as a Member.
- 6.2 However, **do not** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- 6.3 When making a decision, **do** consider the matter with an open mind and on the facts before the meeting at which the decision is to be made.

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Mole Valley District Council (“the Council”) or any Parish Council within Mole Valley has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of any of the authorities or of a Committee or Sub-Committee of the authorities, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

The Council have arranged to appoint two Independent Persons (designated the Independent Person and the Reserve Independent Person) one of whose views must be sought by the Monitoring Officer before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought at any other stage, or by a member against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix A to these arrangements and available for inspection on the Council’s website and on request from Reception at the Council Offices, Pippbrook, Dorking.

The Code of Conduct of any Parish Council within Mole Valley is available for inspection on their website or by arrangement with the Parish Clerk.

3 Making a complaint

If you wish to make a complaint, please write or email to –

The Monitoring Officer
Mole Valley District Council
Pippbrook.
Reigate Road
Dorking
Surrey RH4 1SJ

Email: Legal@molevalley.gov.uk

The Monitoring Officer has statutory responsibility for maintaining the Register of Members' Interests and is responsible for administering the system in respect of complaints of member misconduct.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please say and we will not disclose your name and address to the member against whom you make the complaint without your prior consent although the Council does not normally investigate anonymous complaints unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member of the authority makes a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what

documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments that you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

Should the Investigating Officer conclude after reconsideration of his/her report that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will write to all parties as set out above notifying you that no further action is required.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Sub-Committee or, after consulting the Independent Person, seek local resolution.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you

consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Complaints Sub-Committee of the Standards Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Sub-Committee may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Sub-Committee will then consider what action, if any, it should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Member an opportunity to make representations to it and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8 What action can the Sub-Committee take where a member has failed to comply with the Code of Conduct?

The Standards Committee has delegated to the Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may –

8.1 Publish its findings in respect of the member's conduct;

- 8.2 Report its findings to Council or to the Parish Council for information;
- 8.3 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the Member;
- 8.6 Remove or recommend to the Parish Council that the Member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.7 Withdraw or recommend to the Parish Council that it withdraws facilities provided to the Member by the Council, such as website and/or email and Internet access; or
- 8.8 Exclude or recommend that the Parish Council exclude the Member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chairman will state the decision of the Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Sub-Committee, and send a copy to you, to the member and (if applicable) to the Parish Council, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10 What is the Complaints Sub-Committee?

The Sub-Committee is a Sub-Committee of the Council's Standards Committee. The Independent Person (or Reserve Independent Person if the Independent Person has already been consulted by the Monitoring Officer and/or the Investigating Officer) is invited to attend all meetings of the Sub-Committee and his/her views are sought and taken into consideration before the Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Persons are persons who have applied for the post following advertisement of a vacancy for the post, and are appointed by a majority of all the Members of Council.

A person cannot be “independent” if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Council; or
- 11.2 Is, or has been within the past 5 years, a member, co-opted member or officer of any Parish Council in Mole Valley; or
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
 - (a) Spouse or civil partner;
 - (b) Living with the other person as husband and wife or as if they were civil partners;
 - (c) Grandparent of the other person;
 - (d) A lineal descendent of a grandparent of the other person;
 - (e) A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - (f) A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - (g) Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12. Revision of these arrangements

The Council may resolve to amend these arrangements.

The Chairman of the Sub-Committee has the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Sub-Committee.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

14. Annual Report

The Monitoring Officer shall submit an annual report to the Standards Committee setting out details of all complaints received, including those where no breach was found.

Independent Person

An unpaid and voluntary position – someone to help us maintain high standards of Member Conduct

As a result of the Localism Act 2011, local authorities have a new duty to promote and maintain high standards of conduct by their elected Councillors and co-opted Members. At Mole Valley District Council we take this duty seriously and a new Code of Conduct will set out the key obligations of elected office. If a complaint is made that a Member has failed to comply with the Code, we want someone whose views can be sought (either by the Council or by the Member concerned) before a decision is made on what to do.

What sort of person are we looking for? It is important that the Independent Person has the profile and experience that the community would recognise and respect as bringing an independent and informed perspective to the investigative process. If you have experience in developing or interpreting codes of conduct, that would be an advantage as would knowledge of local government and the need for propriety in the public sector.

To ensure your voice is truly independent the law rules you out of this role if you are or have been within the last five years a Member, co-opted Member or officer of Mole Valley District Council or one of the District's Parish Councils, or if you are a close friend or relative of any of those persons.

If you would like to discuss this position informally and confidentially, please call Chris Harris, Monitoring Office on 01306 879130. If you are interested in applying for this important role in the public life of the Council, please either email or write to Victoria Foreman, Senior Democratic Services Officer with your details.

CLOSING DATE 11th June 2012

Democratic & Legal Services, Mole Valley District Council, Pippbrook, Dorking, Surrey, RH4 1SJ

Mole Valley District Council Standards Committee

The Independent Person: A specification for the role

How has this role come about?

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place 'arrangements' under which allegations that a member or co-opted member of either Mole Valley District Council or one of the District's Parish Councils (or of a Committee or Sub Committee of the authority) has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a Member against whom an allegation has been made.

What will my role be?

You will be an essential consultee if a complaint is made that a Member has failed to comply with the Code of Conduct. You may be asked for your views at any stage of a complaints process and by either the Council or by the Member concerned.

Am I eligible?

A person is not independent and is ineligible if he/she

- Is, or has been within the past 5 years, a Member, co-opted Member or officer of the Council; or
- Is, or has been within the past 5 years, a Member, co-opted Member or Officer of one of the District's Parish Councils; or
- Is a relative, or close friend, of an above person. For this purpose, 'relative' means:
 - Spouse or civil partner;
 - Living with the other person as husband and wife or as if they were civil partners;
 - Grandparent of the other person;
 - A lineal descent of a grandparent of the other person; and
 - A parent, sibling or child of that person.

How long will my appointment be?

The Council will appoint you for an initial period of one year which may be extended to a four year term. The Council may appoint other independent persons in addition to you.

Do I have to live or work in the District?

Not necessarily.

How will the successful candidate be appointed?

We have advertised this position publicly. We may only appoint someone who makes an application to us, and the appointment must be approved by a majority of the Members of the Council.

The Monitoring Officer will conduct interviews from those candidates who appear to meet the criteria and will make recommendations to the Council.

What sort of person is the Panel looking to appoint?

Ideally, the person should be involved in the local community, but not politically active within it, and should have an interest in local government. The person should be a respected figure with an unblemished reputation. No particular professional background is specified, but the person should be able to demonstrate probity and high ethical standards. It is important that the Independent Person has the profile and experience that the community would recognise and respect as bringing an independent and informed perspective to the investigative process. If you have experience in developing or interpreting codes of conduct, that would be an advantage as would knowledge of local government and the need for propriety in the public sector.

Is the appointment paid?

No, but if you incur expenses in carrying out your role these would be reimbursed.

TERMS OF REFERENCE OF THE STANDARDS COMMITTEE

1. Except where such matters are the responsibility of the Council, to exercise all the functions of the Council relating to standards and in particular to promote and maintain high standards of conduct by Members and co-opted Members.
2. To advise the Council on the adoption or revision of the Members' Code of Conduct.
3. To advise the Council generally on matters relating to the ethical conduct of the Council and its Members.
4. To monitor the operation of the Members' Code of Conduct.
5. To advise or arrange to train Members and co-opted Members on ethical matters including the Members' Code of Conduct.
6. To grant dispensations to Members and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct.
7. To deal with all reports on Members' conduct from the Monitoring Officer.
8. To establish Sub-Committees to hear and determine allegations about the conduct of Members where an allegation requires investigation and the Investigation concludes that there has been a breach of the Code of Conduct.
9. To exercise the above in relation to the Parish Councils within Mole Valley (where appropriate).
10. To authorise appropriate delegation to Officers.
11. To be responsible for the granting and supervision of exemption of posts from political restrictions.

New Standing Order 17 (of Part 4 – Rules of Procedure)

17. Interests

17.1 A Member who attends a meeting and has a disclosable pecuniary interest (as specified in the schedule to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012) or a non-pecuniary interest (as set out in the Council's Code of Conduct) in any business of the meeting must disclose the interest to the meeting.

17.2.1 A Member who attends a meeting and has a disclosable pecuniary interest (as specified in the schedule to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012) in any business of that meeting may not participate in any discussion, or vote, on that business, but must withdraw from the meeting at the beginning of such business until its conclusion.

NOTE: This new Standing Order will appear after Standing Order 16: Minutes in the current Constitution.

The remaining Standing Orders in that of Part 4 to be re-numbered accordingly.